

CHAPTER Env-Ws 1200 WINNIPESAUKEE RIVER BASIN PROGRAM

Statutory Authority: RSA 485-A:47

PART Env-Ws 1201 SEWER USE RULES

Env-Ws 1201.01 Purpose. The purpose of these rules is to implement the program established by RSA 485-A:45-54.

Env-Ws 1201.02 Administration. Except as otherwise provided herein, the administrator shall administer, implement, and enforce the provisions of these rules. Any powers granted to, or duties imposed upon the administrator may be delegated by the administrator to other department personnel.

Env-Ws 1201.03 Definitions.

- (a) "Administrator" means the administrator of the WRBP bureau.
- (b) "Backwater valve" means a device placed in the building sewer that will prevent the backflow of sewage from an interceptor, major interceptor or collection system into the building.
- (c) "Board" means the board for the licensing and regulation of plumbers established pursuant to RSA 329-A:3.
- (d) "Biochemical Oxygen Demand" or "BOD" means the quantity of oxygen utilized in the degradation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.
- (e) "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning 5 feet outside the inner face of the building wall.
- (f) "Building sewer" means that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.
- (g) "Bypass" means the intentional diversion of pollutants from any portion of an industrial user's pretreatment facility.
- (h) "Chemical oxygen demand" or "COD" means a measure of the oxygen equivalent of that portion of the organic matter on a sample that is susceptible to oxidation by a strong chemical oxidant.
- (i) "Combined sewer" means a sewer intended to receive both wastewater and storm or surface water.

(j) "Community" means any city or town that is included as part of, and is served by the Winnepesaukee river basin program treatment works and includes but is not limited to portions of Laconia, Franklin, Meredith, Gilford, Tilton, Belmont, Northfield, Sanbornton and the Bay District.

(k) "Composite sample" means a collection of individual grab samples obtained at regular time or flow intervals.

(l) "Contractor" means an individual, partnership or corporation and the proper agents and representatives thereof performing work or providing supplies under an established contract.

(m) "Control manhole" means a structure allowing access to wastes in a sewage collection system for monitoring and sampling.

(n) "Cooling water" means the clean wastewater from air conditioning, industrial cooling, condensing and similar apparatus and from hydraulically-powered equipment which is sufficiently clean, uncontaminated and unpolluted that it can be discharged, without treatment or purification, to a natural open stream or watercourse, subject to the conditions of an NPDES permit.

(o) "Department" means the New Hampshire department of environmental services.

(p) "Design-year usage" means the method used by the WRBP to equitably apportion POTW, administrative and replacement costs among communities.

(q) "Division" means the water division of the department.

(r) "EPA" means the federal Environmental Protection Agency.

(s) "Fume toxicity screening level" means the concentration of a pollutant in water which, in a confined environment and a standard temperature, would cause the concentration of the pollutant in the air over that water to exceed the exposure limit established for the protection of worker health and safety.

(t) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

(u) "GPD" means gallons per day.

(v) "Grab sample" means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

(w) "Grease" means the volatile and non-volatile residual fats, oils, fatty acids, soaps, waxes, mineral oils, and other similar materials removed from a grease trap serving a restaurant or other facilities requiring such grease traps.

(x) "Grit" means heavy inorganic matter such as stone, gravel, cinders, sand, silt, ashes, and heavy particulate matter such as bone chips and coffee grounds.

(y) "Hauler" means any person engaged in the removal or transportation of septage or holding tank wastes to a disposal site.

(z) "Headworks" means that portion of a wastewater treatment plant which first receives the total influent flow for initial treatment.

(aa) "Improved property" means any property located within the community upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structures sanitary sewage and/or industry wastes are or can be discharged.

(ab) "Indirect discharge" means the introduction of pollutants into the POTW from any industrial source regulated under Section 307(b), (c), or (d) of the Federal Water Pollution Control Act.

(ac) "Industrial discharge" means "industrial waste", as defined in RSA 485-A:2, VI, that is released into a sewer or sewage collection system or which, under state or federal law, should be released into a sewer or sewerage collection system. For purposes of these rules, "industrial discharges" does not include sewage.

(ad) "Industrial discharge permit" or "IDP" means a regulatory document issued by the WRBP designed to control the discharge of pollutants from industrial users into the public sewer as authorized by the provisions set forth in RSA 485-A:45-54 and its federal NPDES permit.

(ae) "Industrial user" or "user" means a person who discharges industrial wastes to the POTW.

(af) "Inspector" means the person or persons duly authorized by the community or the department, pursuant to RSA 485-A:45-54, to inspect and approve the installation of building sewers and their connection to the sewage collection system.

(ag) "Interceptor sewer" means a channel or sewer which serves to collect the flow from the sewage collection system.

(ah) "Interference" means a discharge, which:

(1) Alone or in conjunction with discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Is a cause of a violation of any requirement of the WRBP's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations including but not limited to:

a. Section 405 of the Clean Water Act;

- b. The Solid Waste Disposal Act, including Title II commonly referred to as RCRA;
- c. The Clean Air Act;
- d. The Toxic Substance Control Act;
- e. The Marine Protection, Research, and Sanctuaries Act;
- f. Standards for Sewage Use and Disposal, 40 CFR 503;
- g. Septage and sludge disposal rules, Env-Ws 800;
- h. Groundwater protection rules, Env-Ws 410;
- i. Solid waste rules, Env-Wm 100-300 and Env-Wm 2100-3500; and
- j. Hazardous waste rules, Env-Wm 100-1000.

(ai) "Local Limits" means a pollutant concentration which numerically limits the amount of each specified pollutant that can be discharged to the POTW in accordance with RSA 485-A:5,IV or 40 CFR 403.5(c).

(aj) "Major interceptor" means a channel or sewer which serves to collect the flow from the sewage collection system and is owned and maintained by the state.

(ak) "Mg/l" means milligrams per liter.

(al) "National Categorical Pretreatment Standard" means any regulations containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Clean Water Act and amendments thereto which apply to a specific category of industrial users and which are found at 40 CFR Chapter I, Subchapter N, parts 405 through 471.

(am) "Natural outlet" means any point of discharge, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

(an) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(ao) "National pollution discharge elimination system" (NPDES) means a regulatory program implemented by EPA through the issuance of NPDES permits which are designed to control the discharge of pollutants from point sources into the waters of the United States.

(ap) "Operator" means "operator" as defined in RSA 485-A:2, VII-a, namely:

"(a) The individual who has full responsibility for the daily operation of a wastewater treatment plant or pollution control facility;

(b) The individual normally responsible for the operations shift; or

(c) Individuals who perform important operating functions."

(aq) "Other wastes" means "other wastes" as defined in RSA 485-A:2, VIII, namely "garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life."

(ar) "Pass through" means the discharge of pollutants through the treatment works into surface waters in quantities or concentrations, which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement(s) of the WRBP's NPDES permit, including an increase in the magnitude or duration of a violation of applicable water quality criteria.

(as) "Permittee" means any individual, partnership, corporation, trust, or similar entity to whom an IDP has been issued by the department.

(at) "Person" means "person" as defined in RSA 485-A:2, IX, namely "any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity."

(au) "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in gram equivalents per liter of solution.

(av) "Pollutant" means "pollutant" as defined in 40 CFR 122.2.

(aw) "Pretreatment" means the application of physical, chemical, and/or biological processes to reduce the amount of pollutants in or alter the nature of the pollutant property in a waste prior to discharging such waste into a publicly owned treatment works.

(ax) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

(ay) "Pretreatment standards" means established prohibited discharge standards, standards specified in 40 CFR Chapter I, Subchapter N, Parts 405-471, and local limits as specified in RSA 485-A:5.

(az) "Prohibited discharge standards" means absolute prohibitions against the discharge of certain substances as specified in Env-Ws 1201.07.

(ba) "Properly shredded garbage" means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/4 inch in any dimension.

(bb) "Property owner" means any person vested with legal or equitable ownership of any improved property.

(bc) "Public sewer" means a sewer controlled by public authority and in which all owners of abutting properties have equal rights.

(bd) "Publicly owned treatment works" or "POTW" means a "treatment works", as defined by Section 212 of the Clean Water Act as amended, which is owned by the department, including the treatment plant and any devices or systems used in the collection, storage, treatment, recycling or reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to the treatment plant.

(be) "Screening level" means that concentration of a pollutant in water which would cause a threat to personnel exposed to the pollutant, or would cause a threat to the structures of the POTW.

(bf) "Septage" means septage as defined by RSA 485-A:2, IX-a, namely "material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from POTWs and industrial waste."

(bg) "Service connection" means that part of the sewer system extending from a sewer to the curb line, or, if there is no curb line, to the property line, or, if the sewer is located in a right-of-way, to the edge of the right-of-way. If no such service connection is provided, then "service connection" means that portion of, or place in, a sewer which is provided for connection of any building sewer.

(bh) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not include economic loss caused by delays in production.

(bi) "Sewage" means "sewage" as defined in RSA 485-A:2, X, namely "water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present."

(bj) "Sewage collection system" means the common lateral sewers, within a publicly-owned treatment system which are primarily installed to receive wastewater directly from facilities which convey wastewater from individual structures or from private property, and which includes service connection fittings, designed for connection with those facilities.

(bk) "Sewer" means a conduit designed to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, including sewer appurtenances as defined in Env-Ws 701.02.

(bl) "Significant industrial user" (SIU) means "significant industrial user" as defined in 40 CFR 403.3(t).

(bm) "Significant Noncompliance" (SNC) means an industrial user that meets one of the criteria specified in 40 CFR 403.8(f)(v)(2)(D)(vii).

(bn) "Slug" means any discharge of water or wastewater in which the concentration of any given pollutant or the quantity of flow exceeds, for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration or flow during normal operation, or which adversely affects the collection system and/or performance of the wastewater treatment works.

(bo) "Standard industrial classification" (SIC) means a classification code pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

(bp) "Standard laboratory procedure" means EPA-approved methods published in 40 CFR 136 or methods approved for use pursuant to Env-C 300.

(bq) "State" means the state of New Hampshire.

(br) "State plumbing rules" means rules adopted by the board pursuant to RSA 329-A:15.

(bs) "Storm drain" means a conduit which carries storm, surface or cooling water, but not sanitary sewage or industrial process wastes. The term includes "storm sewer".

(bt) "Superintendent" means the individual employed by the state who is responsible for the operation and maintenance of the POTW, or his/her authorized deputy, agent or representative.

(bu) "Suspended solids" means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.

(bv) "Traps" means intercepting devices, such as grease traps, oil separators or grit removal chambers, located at the source and placed in the building drain prior to discharge to the sewage collection system. The term includes "oil and grease interceptors".

(bw) "Treatment works" means any device or system used in the storage, treatment, recycling or reclamation of sanitary sewage or industrial waste including the sewage collection system, interceptor sewers, major interceptors, pumping stations, sewage treatment plant and appurtenant facilities essential to the operation of the entire system.

(bx) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(by) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

(bz) "Winnepesaukee river basin program" (WRBP) means the bureau within the department charged with implementing RSA 485-A:45-54.

(ca) "WRBP approval" means the approval of the WRBP administrator or designee.

(cb) "Unpolluted water" means water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sewerage collection system and POTW provided.

Env-Ws 1201.04 Use of Public Sewers.

(a) Pursuant to the provisions of RSA 147 and RSA 485-A, and any other statutory authority, the owner of any improved property that is not connected to a public sewer but to which any public sewer is available shall, unless a waiver is granted by the community pursuant to RSA 147:8, connect such improved property within the time outlined in law or the individual community ordinances, as applicable.

(b) Connection to the public sewers shall be for the purpose of discharging all sewage and industrial wastes from improved property into the sewage collection system subject to limitations and restrictions as established in these rules, or by the community, or the department.

(c) Each property owner connecting to the public sewers shall, within the same time limit, cease and desist from all further discharge of sewage and/or industrial wastes into any other conduit or pre-existing system, whether privately or publicly owned.

(d) In accordance with RSA 147:8, a public sewer shall be deemed available to improved property if such improved property is within 100 feet, or such greater distance as specified by community code or ordinance, of the public sewer as measured from the closest part of any structure which contains plumbing on said improved property, along or across the shortest available alignment to the center line of the sewage collection system.

(e) Persons discharging industrial wastes into the POTW or into public or private sewers connected to the POTW shall comply with applicable requirements of federal and state pretreatment rules and regulations, the requirements of the WRBP industrial pretreatment rules specified in Env-Ws 1205, and the rules in this part.

(f) Any person proposing a new discharge or an increase of more than 20 percent beyond limits previously permitted in the volume or character of pollutants that are being discharged to the POTW shall notify the community within the time limit established by the community ordinance prior to the proposed change and/or connection. Proposed new discharge from commercial or residential sources shall be submitted to the department for approval in accordance with Env-Ws 720.08.

(g) No privy, vault, cesspool, sinkhole, septic tank or similar receptacle shall be used and maintained at any time upon any improved property which has been connected to a public sewer or which is required by Env-Ws 1201.04(a) to be connected to a public sewer.

(h) In the case where a building drain connected to a septic tank on any improved property is at an elevation which is too low to permit gravity flow to the public sewer, the septic tank or similar receptacle may be used and shall be retrofitted with submersible sewage pumps. Such

receptacles shall conform to the requirements of the building and plumbing codes or applicable rules, regulations or ordinances of the community, the WRBP and the department.

(i) Receptacles prohibited by (g) above shall be abandoned and filled with non-liquid material that will prevent any further use of the receptacle, such as sand, gravel, or concrete.

Env-Ws 1201.05 Construction, Installation, and Connection of Building Sewers.

(a) Each building on an improved property shall be served by its own building sewer. In the case where one building stands at the rear of another such that no private or public sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, provided that the approval of the community shall be obtained in writing prior to connecting.

(b) Existing building sewers may be used to connect with new buildings only when they are found, on examination and test by the community, to meet all requirements of these rules.

(c) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall conform to the requirements of the building and plumbing codes or other applicable rules, regulations or ordinance of the community, the WRBP and the department. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials and Water Environment Federation Manual of Practice No. FD-5 shall apply.

(d) Whenever possible, the building sewer shall be brought to the building at an elevation below the lowest floor of the building. In all buildings in which the elevation of any building drain is too low to permit gravity flow to the public sewer, sewage carried by such building drain shall be lifted and discharged to the building sewer by means approved by the community and at the property owner's expense.

(e) A property owner served by a building sewer discharging industrial wastes from a SIU, shall be required by the WRBP or community to install a control manhole, together with such meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes.

(f) The control manhole, including all monitoring and sampling equipment, shall be:

(1) Accessible at all times;

(2) Safely located; and

(3) Installed and maintained by the property owner at the owner's expense.

(g) No person shall connect roof down spouts, exterior or interior foundation drains, or other sources of surface run-off or groundwater directly or indirectly to a public sewer.

(h) Building floor drains shall be prohibited except for, but not limited to, the following, which may only be discharged if pretreated in accordance with federal and state requirements:

- (1) Automobile garages;
- (2) Car wash bays;
- (3) Funeral parlors;
- (4) Commercial laundromat;
- (5) Meat and deli rooms; and
- (6) Parking garages.

(i) The construction and connection of the building sewer into the public sewer shall conform to the requirements of the building code, state plumbing code and other applicable rules, regulations and ordinances of the community and the department.

(j) Grease, oil, and sand traps shall be provided when they are necessary for the proper handling of liquid wastes containing grease, oil, and sand, respectively. However, such traps shall not be required for private living quarters or individual dwelling units. All traps shall be of a type and capacity suitable for their intended use and shall be readily accessible for cleaning and inspection. The property owner shall be responsible for the proper removal and disposal of all captured materials, which materials shall be disposed of in accordance with all applicable local, state, and federal regulations.

(k) Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

(l) Construction, maintenance, repair and replacement of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property served by the sewer.

(m) Persons discharging industrial wastes to the WRBP treatment works shall also comply with the requirements of Env-Ws 1205, industrial pretreatment rules.

(n) No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any public sewer or any part of the sewer, service connection or building sewer without first obtaining a connection permit, in writing, from the community in which the sewer is located. In the event that a proposed connection is to a WRBP interceptor sewer, the applicant shall obtain a WRBP connection permit application from the community and submit it to the WRBP.

(o) The applicant for a WRBP connection permit required by (n) above shall provide the following to the WRBP:

- (1) The name, address and phone number of the applicant;

- (2) The location where the connection to the WRBP interceptor is to be made;
- (3) The estimated date of service connection;
- (4) The name, address and phone number of the contractor installing the service connection;
- (5) Plans or drawings showing the details of the service connections; and
- (6) Approval and signature of an authorized community official.

(p) Costs for labor or material incurred by the WRBP or the community during the process of connection to the sewer shall be borne by the property owner, in accordance with RSA 149-I:7.

(q) The applicant for the building sewer permit shall notify the the community and the WRBP when the building sewer is ready for inspection, testing, and connection to the public sewer. Such notice shall be provided not less than 48 hours in advance of the time any connection is to be made to any public sewer or WRBP interceptor. The connection and testing shall be made under the supervision and in the presence of the community or its representative(s).

(r) Every excavation for a building sewer shall be guarded with barricades and lights to protect all persons from damage or injury. Streets, sidewalks, parkways, and other public or state property disturbed in the course of work on a building sewer shall be restored in a manner satisfactory to the public entity that owns the property.

(s) All sewer connections shall be made gas-tight and watertight and verified by proper testing. The scheduling of pressure and leakage tests for sewers shall be made in accordance with the test methods and procedures as described by the pipe manufacturer or the department standards in Env-Ws 700. Any deviation from the prescribed procedures and materials shall be approved by the community and the department before installation.

(t) The building sewer shall be tested for infiltration/exfiltration according to Env-Ws 713.03(c) or the requirements of the individual community ordinances.

(u) No building sewer shall be covered until it has been inspected and approved by a representative of the community in which the sewer is located or the WRBP. If any part of the building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the property owner of the improved property to be connected to the public sewer, in accordance with RSA 149-I:7.

Env-Ws 1201.06 Disposal of Septic Tank Wastes.

(a) Septage haulers shall not use the WRBP for the disposal of septage or holding tank wastes until a sanitary tank truck permit has been obtained from the department. The holding of such permit shall be a condition precedent to the privileges to dispose such material at the POTW.

(b) Applications for permits shall be made using forms available at the WRBP or from the department. The application shall contain the information specified in Env-Ws 804.01.

(c) Permission to use such facilities and the assessment of fees pursuant to Env-Ws 1202.05 for such use shall be under the jurisdiction of the WRBP and its operator(s).

(d) A copy of such permit, as required by RSA 147:34, shall be on file with the WRBP. Upon renewal or revocation of such permit, the hauler shall be responsible for notification of such renewal or revocation to the WRBP.

(e) Septage and holding tank wastes shall be accepted into the POTW at designated septage receiving areas.

(f) The WRBP shall limit the disposal of such wastes, if such disposal can result in:

- (1) Pass through; or
- (2) Interference with the treatment works operation; or
- (3) Endangerment of the health and welfare of the POTW staff.

(g) No toxic wastes, oil, grease in amounts that would cause interference, or chemicals that would cause interference shall be dumped at the septage receiving areas.

(h) Designated locations for the dumping of septage and hours of operation for such facilities shall be posted at the septage disposal site and may be obtained by calling the WRBP.

(i) The septage hauler shall fill out and submit a septage discharge receipt form at the time of each dump.

(j) The septage discharge receipt shall identify:

- (1) The name and address of the pumping firm;
- (2) The truck health plate license number, driver's name, and tank volume;
- (3) The source of the load, name and telephone number of client and town of origin;
- (4) The fee to be paid for dumping the load; and
- (5) The date and time of dumping.

(k) If the WRBP determines that any of the following exist or have occurred with respect to a septage discharge receipt form, the WRBP shall request the commissioner of the department fine the hauler in accordance with RSA 485-A:54,V and Env-C 600:

- (1) Submission of false information; or

- (2) Failure of the hauler to comply with the provisions of this section; or
- (3) Any other violation of RSA 485-A or rules adopted pursuant thereto or failure to comply with an order of the department relative to the disposal of septage.

Env-Ws 1201.07 General Sewered Wastes Restrictions.

(a) No person shall discharge or cause or allow to be discharged to the POTW any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters.

(b) Storm water and all other unpolluted drainage shall be discharged to such storm sewers or natural outlets as are specifically approved by the local authority having jurisdiction over such discharges. Industrial cooling water or process waters shall require an NPDES permit prior to discharge to a storm sewer or natural outlet. If the industrial cooling water or process waters does not meet the established NH water quality standards in Env-Ws 430-440 for discharge to a stormdrain, the user shall apply for a discharge permit request application.

(c) Pollutants introduced into the POTW by an industrial user shall not pass through or interfere with the operation or performance of the POTW or cause the POTW to violate Env-Ws 430-440.

(d) No person shall discharge or cause or allow to be discharged any of the following described waters or wastes to any sewers:

- (1) Any gasoline, benzene, naptha, fuel, oil, or other flammable or explosive liquid, solid, or gas;

- (2) Any industrial wastes, including oxygen-demanding wastes at a flow rate and/or concentration which would:

- a. Cause interference with the POTW;

- b. Constitute a hazard to humans and animals;

- c. Create a public nuisance; and

- d. Exceed any applicable national categorical pretreatment standard, or local limit.

- (3) Any waters or wastes having a pH lower than 5.5 or higher than 12.0 or having any other corrosive property capable of causing damage or hazard to structural components, equipment, or personnel of the POTW;

- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewer system such as, but not limited to:

- a. Ashes;
- b. Cinders;
- c. Sand;
- d. Mud;
- e. Straw;
- f. Shavings;
- g. Metal;
- h. Glass;
- i. Rags;
- j. Feathers;
- k. Tar;
- l. Plastics;
- m. Wood;
- n. Unground garbage;
- o. Whole blood;
- p. Paunch manure;
- q. Hair and fleshings;
- r. Entrails; and
- s. Paper dishes, cups, or milk containers;

(5) Any liquid or vapor having a temperature higher than 150°F, or sufficiently hot to cause damage to the POTW or to cause the influent at the POTW headworks to exceed 104°F or cause inhibition of biological activity in the POTW;

(6) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 250 mg/l for animal/vegetable origin and 50 mg/l for petroleum oil, nonbiodegradable oils, or products of mineral origin;

(7) Any waters or wastes which would interfere with the POTW treatment process;

(8) Any waters or wastes containing heavy metals, solvents, and similar toxic substances to such degree that any such material discharged to the public sewer exceeds the limits established by the community, the department, or the EPA for such materials pursuant to requirements in 40 CFR 403.

(9) Any pollutant exceeding the maximum daily concentration listed in Table 1201-1, below:

Table 1201-1 - Local limits

<u>Pollutant</u>	<u>Numerical Limit</u>
Aluminum	125 mg/l
Arsenic	0.23 mg/l
Cadmium	0.03 mg/l
Chloride	9100 mg/l
Chromium	3.30 mg/l
Copper	1.40 mg/l
Cyanide	0.45 mg/l
Iron	25.0 mg/l
Lead	0.85 mg/l
Manganese	5.00 mg/l
Mercury	0.025 mg/l
Molybdenum	0.38 mg/l
Nickel	1.00 mg/l
Selenium	0.18 mg/l
Silver	0.40 mg/l
Zinc	5.85 mg/l

(10) Any discharge of pollutants exceeding the fume toxicity screening limits in accordance with 40 CFR 403.5(b);

(11) Any radioactive wastes or isotopes of such half-life or concentration that exceed the limits established by state and federal rule or regulations;

(12) Any slurry solutions of suspended or dissolved inert materials;

(13) Any solutions of dissolved inert materials, such as, but not limited to:

a. Sodium chloride; and

b. Sodium sulfate;

(14) Any materials which exert or cause:

a. Discoloration such as is caused by dye wastes and vegetable tanning solutions;

b. BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute an impact on the POTW;

c. A volume of flow or concentration of wastes or both constituting "slugs" as defined herein; or

d. Odors.

(15) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over POTW discharge to receiving waters;

(16) Garbage which has not been properly shredded; or

(17) Waters or wastes which, by interaction with other water or wastes in the POTW:

a. Release dangerous or noxious gases;

b. Form suspended solids which interfere with the operation of the collection system; or

c. Create a condition deleterious to structures and treatment processes.

(e) No person shall discharge or cause or allow to be discharged any substances, materials, waters, or wastes that can harm the POTW, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, health, or public property or constitute a nuisance.

Env-Ws 1201.08 Approval of Discharges.

(a) The WRBP and/or the community shall set limitations lower than the limitations established in Env-Ws 1201.07 if more stringent limitations are necessary to meet applicable federal and state laws.

(b) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, and contain the substances or possess the characteristics enumerated in Env-Ws 1201.07(e), and which might have a deleterious effect upon the treatment works, processes, equipment, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the department shall:

(1) Reject the waste;

(2) Require pretreatment prior to discharge to the public sewers;

(3) Limit the quantities and rates of discharge;

(4) Require payment to cover the added cost of handling and treating the wastes; or

(5) Require a user to provide the following information needed to determine compliance with these rules or community ordinances:

- a. Wastewaters discharge peak rate and volume over a specified time period;
- b. Chemical analyses of wastewaters;
- c. A line diagram of the production process showing the origin of each wastestream;
- d. A listing of all chemicals used in the facility which could be discharged to the sewer;
- e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
- f. Details of wastewater pretreatment facilities; and
- g. Details of systems established by the user to prevent and control the losses of materials through spills to the municipal or storm sewer.

(c) No person shall meet or attempt to meet requirements of these sewer rules by diluting wastes.

Env-Ws 1201.09 Conflict with Community Ordinance.

(a) In any case where a provision of Env-Ws 1200 conflicts with a provision of any ordinance or code of those communities in the WRBP, the provision which establishes the higher standard for the promotion and protection of the environment, the POTW and the health and safety of the people of those communities shall prevail.

(b) In the case of a dispute concerning interpretation or application of Env-Ws 1200 or a conflict with community codes or ordinances, the dispute shall be treated as a contested case under the provisions of RSA 541-A.

PART Env-Ws 1202 WINNIPESAUKEE RIVER BASIN PROGRAM; CHARGES AND BILLING PROCEDURES

Env-Ws 1202.01 Purpose and Scope. These rules are intended to implement RSA 485-A:50 by providing an equitable means of distributing the cost of administering the WRBP and the cost of operation, maintenance and replacement of treatment works to communities within the WRBP.

Env-Ws 1202.02 Operation and Maintenance Charges.

(a) Operation and maintenance charges to the communities shall consist of the sum of the following charges:

(1) Volume charge based upon measured or approximated gallons of waste generated in the community during the billing period; and

(2) Sewage concentration surcharge based upon the weight of suspended solids or BOD exceeding the weight of suspended solids or BOD if the concentrations of these constituents from a permitted industrial user averaged over a 24-hour period is greater than 250 mg/l.

(b) Interceptor maintenance charges shall be based upon the measured or approximated gallons of sewage per mile of interceptor sewer from point of entry into the WRBP system to the POTW.

(c) Pumping charges shall be based upon the measured and approximated gallons of waste pumped through each WRBP pumping station.

(d) Metering and access charges shall be based upon measured and approximated gallons of flow entering the WRBP system through metering stations or directly to a WRBP interceptor.

Env-Ws 1202.03 Administrative Charges.

(a) In accordance with RSA 485-A:50, administrative costs for the WRBP shall be assessed to each community based on its projected design-year usage of the POTW.

(b) In the event that additional communities enter the WRBP, administrative charge assessments shall be modified to reflect those communities' projected design-year usage of the POTW in accordance with RSA 485-A:51, VII.

Env-Ws 1202.04 Replacement Charge.

(a) To provide for repair and replacement of major POTW appurtenances, a non-lapsing sinking fund shall be capitalized by contributions from member communities in accordance with RSA 485-A:51.

Env-Ws 1202.05 Septage Charge.

(a) All septage haulers authorized to use the POTW for the disposal of septage and holding tank wastes shall annually pay a fee of \$100 to the WRBP to defray the administrative costs of the septage program.

(b) In accordance with RSA 485-A:50,IV and RSA 149-I:8, the per gallon charge for septage shall be based on measured or approximated volume and concentration of such material. Treatment charges to any septage hauler shall be based on actual gallons of septage dumped at the designated septage receiving area(s), with a minimum charge based on the size of the truck tank or a 1,000 gallon load, whichever is smaller.

(c) In accordance with RSA 485-A:50,IV and RSA 149-I:8, the per gallon charge for holding tank as defined by Env-Ws 1002.34 wastes shall be based on measured or approximated volume and concentration of such material. Treatment charges to any septage hauler shall be

based on actual gallons of holding tank wastes, which are located within the WRBP communities, dumped at the designated receiving area(s), with a minimum charge based on the size of the tank truck or a 1,000 gallon load, whichever is smaller.

Env-Ws 1202.06 Industrial User Charges. All industrial users holding IDPs shall annually pay a fee of \$1,000 to the WRBP to defray the administrative costs of the industrial discharge permit program outlined in Env-Ws 1205.

Env-Ws 1202.07 Community Assessments.

(a) Assessments for operation and maintenance shall be billed in accordance with RSA 485-A:50, as follows:

- (1) Assessments of each community's share of charges shall be made during the first quarter of each state fiscal year based upon the estimated budget for operation and maintenance costs for the WRBP for that fiscal year and each community's proportional share of that budget;
- (2) Billings for estimated operation and maintenance charges shall be sent quarterly to each community, and shall be due and payable upon receipt by the community;
- (3) At the close of each fiscal year, operation and maintenance charges as specified in Env-Ws 1202.02 shall be calculated based on actual expenditures for the WRBP and actual measured or approximated flows; and
- (4) Credits or additional charges to each community shall be applied in the appropriate amount during the first quarterly billing of the next fiscal year based on over-or-under-billing, respectively, during the prior fiscal year.

(b) Assessments for administrative charges shall be billed in accordance with RSA 485-A:50, as follows:

- (1) Estimates of each municipality's share of administrative costs shall be made during the first quarter of each fiscal year and shall be based upon the estimated budget for administrative costs for the WRBP for that fiscal year, and each member's estimated share of that budget; and
- (2) Billings for estimated administrative charges shall be made quarterly to each municipality in the WRBP, and shall be due and payable upon receipt by the community.

(c) Replacement charges shall be assessed as follows:

- (1) Assessment of each community's share of any replacement costs due or expected to be due in a given fiscal year shall be made during the first quarter of that fiscal year; and

(2) Billings for assessed replacement charges shall be made in the first quarter of each fiscal year to each community and shall be due and payable upon receipt.

Env-Ws 1202.08 Application Review Charges.

(a) A one-time fee of \$150 shall be charged to persons proposing a direct connection to a WRBP-owned sewer. The fee shall cover both WRBP review of the connection request and WRBP inspection of the materials and methods of the connection.

(b) A one-time fee of \$50 shall be charged to persons submitting a discharge permit request application. The fee shall cover the WRBP's review of the discharge request to ensure that it complies with department rules governing such discharges. This fee shall not apply to municipalities, counties, state agencies, or school districts.

PART Env-Ws 1203 ADMINISTRATIVE ENFORCEMENT PROCEDURES

Env-Ws 1203.01 Penalties. Any person who is subject to these rules and who violates the requirements of, or refuses to comply with, any of the provisions of the sewer use rules, shall be subject to the enforcement and penalty provisions set forth in RSA 485-A:54,V and Env-C 600.

PART Env-Ws 1204 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

Env-Ws 1204.01 Publication. The WRBP shall publish annually, in the largest daily newspaper published in the area where the POTW is located, a list of SIUs which, during the previous 12 months, were in SNC with applicable pretreatment standards and requirements.

PART Env-Ws 1205 INDUSTRIAL PRETREATMENT RULES

Env-Ws 1205.01 Applicability.

(a) All SIUs discharging industrial wastes into the POTW or into public or private sewers connected to the POTW shall comply with applicable requirements of federal and state industrial pretreatment rules and regulations in addition to the requirements of Env-Ws 1201 and this part.

(b) All industrial waste shall be pretreated in accordance with federal and state rules and regulations to the extent required by applicable national categorical pretreatment standards, state pretreatment standards or standards established by these rules, whichever is more stringent.

Env-Ws 1205.02 Industrial Discharge Permit Requirement.

(a) No SIU shall discharge any industrial process waste to the POTW or to a public or private sewer connected to the POTW without a valid industrial discharge permit (IDP).

(b) Any violation of the terms and conditions of an IDP shall be deemed a violation of these rules and shall subject the permittee to the enforcement actions set out in Env-C 600 and in accordance with RSA 485-A:54,V. Obtaining an IDP shall not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

Env-Ws 1205.03 Industrial Discharge Permit Application and Approval.

(a) Any SIU proposing to begin or recommence discharging industrial waste into the POTW shall file a discharge permit request application to obtain an industrial discharge permit prior to the beginning and recommencing of such discharge. The discharge permit request application shall be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

(b) The applications required pursuant to (a) above shall be available from the community and shall indicate:

- (1) The name of community;
- (2) The total flow discharged which shall include sanitary and industrial wastes; and
- (3) The approval and signature of the authorized community official.

(c) Any user filing to obtain an IDP shall provide the following minimum information on an application obtained from the POTW:

- (1) The name and address of the user, including the name of the operator(s) and responsible individual who has certified the permit application pursuant to Env-Ws 1205.09;
- (2) A list of all environmental permits held by or on behalf of the user;
- (3) A brief description of the nature, average rate of production, and standard industrial classification of the operations carried out by the user;
- (4) An identification of the categorical pretreatment standards applicable to each regulated process;
- (5) An analysis identifying the nature and concentration of pollutants in the discharge;
- (6) Information showing the measured average daily and maximum daily flows, in gallons per day, to the public sewer from regulated process streams and from other waste streams;
- (7) Pursuant to Env-Ws 1205.13, a compliance schedule of actions to be taken to comply with discharge limitations if presently out of compliance;

- (8) A schematic diagram showing the production process, including the origin of each wastestream;
 - (9) A listing of all chemicals used by the user which could be discharged, such as production chemicals, degreasers, and cleaning solvents;
 - (10) Any other information required by applicable federal or state industrial pretreatment reporting requirements; and
 - (11) Any additional information determined by the department to be necessary to fully assess the proposed industrial discharge.
- (d) If pretreatment is necessary for the SIU to comply with discharge limitations, plans for the pretreatment facilities shall be submitted by a professional engineer licensed to practice in the state of New Hampshire.
- (e) Any additional information requested pursuant to (c)(11) shall be submitted within 30 days to meet the baseline monitoring requirements applicable to industrial users subject to federal, state and local pretreatment standards and requirements.
- (f) The application shall contain the certification statement in Env-Ws 1205.09 signed by an authorized person of the user.
- (g) When the department and the community approves the pretreatment or equalization of waste flows, the design and installation of these facilities shall be subject to the review and approval of the community and the department and subject to the requirements of all applicable codes, ordinances and laws. Such facilities shall not be connected until said approval has been obtained in writing from the department. Such approval shall not relieve the owner of the responsibility of discharging treated waste that meets the requirements of these rules.
- (h) Where pretreatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained at all times by the property owner at his expense to meet the discharge limitations established in the permittee's industrial discharge permit.

Env-Ws 1205.04 IDP Duration.

- (a) An IDP shall be issued for a specified time period of one year from the effective date of the permit. Each IDP shall indicate a specific date upon which it will expire.
- (b) An IDP shall be terminated upon cessation of operations or transfer of business ownership, unless notification of such transfer is provided at least 60 days in advance.
- (c) The notice required in (b) above shall include a written certification which:
- (1) States that the new property owner and/or operator has no immediate intent to change the facility's operations and processes;
 - (2) Identifies the specific date on which the transfer of ownership is to occur; and

(3) Acknowledges full responsibility for complying with the existing permit conditions and conditions.

Env-Ws 1205.05 IDP Contents.

(a) The IDP shall identify the general and specific conditions under which the industrial waste shall be accepted for discharge to the POTW.

(b) Each IDP shall specifically include the following:

- (1) A statement that indicates the permit duration;
- (2) Self-monitoring, sampling, reporting, notification, and record-keeping requirements including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local rules;
- (3) Effluent limitations for the industrial waste based on applicable pretreatment standards; and
- (4) Requirements to modify the permit as necessary to conform to discharge limitation requirements or other requirements enacted by federal, state, or community rules and/or regulations.
- (5) For users with reporting requirements, such reports shall at minimum require:
 - a. Periodic monitoring results indicating the nature and concentration of pollutants in the pretreatment effluent discharge from the regulated processes governed by pretreatment standards and the average and maximum daily permitted process flow;
 - b. A certification statement pursuant to Env-Ws 1205.09(a) as to whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment systems are necessary;
 - c. Submittal of any analytical results monitored more frequently than required by the IDP; and
 - d. That all reports shall be signed and certified pursuant to Env-Ws 1205.09.

(c) Each IDP shall contain, as a minimum:

- (1) Limits on the maximum and/or average rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to prevent accidental, unanticipated, or non-routine discharges;

- (3) Requirements for installation and maintenance of sampling facilities and equipment;
- (4) Other special permit conditions as deemed necessary by the WRBP to ensure compliance with these rules, and state and federal laws, rules, and regulations; and
- (5) Pretreatment and self-monitoring facilities required and a schedule of actions to acquire and install such facilities.

Env-Ws 1205.06 Change in Discharge.

(a) A SIU proposing a new discharge or a change in quantity of its existing discharge shall obtain a new discharge permit request application from the community in which the discharge is proposed and submit the completed application to the WRBP at least 60 days prior to the commencement of such discharge.

(b) If the discharge in (a) above requires the construction and installation of additional treatment devices, the SIU shall submit to the WRBP plans and specifications of the proposed pretreatment facility stamped by a professional engineer licensed to practice in the state of New Hampshire.

(c) A SIU proposing a change in quality of its existing discharge shall, as specified in its IDP, obtain a new discharge permit request application from the WRBP and submit the completed application at least 60 days prior to the commencement of such discharge.

(d) Upon approval of the discharge permit request application by the department pursuant to RSA 485-A:6, the WRBP shall issue a new or amended IDP.

Env-Ws 1205.07 Industrial Discharge Permit Modification. The WRBP shall modify an IDP for good reasons, including, but not limited to, the following:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or quality since the time of IDP issuance;

(c) A change in the POTW's NPDES permit requirements;

(d) Information indicating that the permitted discharge poses a threat to the POTW, its personnel, or the surface water quality in the receiving stream;

(e) Misrepresentations or failure to fully disclose all relevant facts in the IDP application or in any required reporting;

(f) To correct typographical or other errors in the IDP;

(g) To reflect a transfer of the facility ownership or operation to a new owner or operator; or

(h) Any other reasons which would require a modification of the permit to accurately reflect then-current requirements or operating conditions.

Env-Ws 1205.08 Signature Requirements for Reports and Applications.

(a) The reports and applications required by Env-Ws 1205.03(a), Env-Ws 1205.05(b)(5), Env-Ws 1205.15, and Env-Ws 1205.06(a) and (c) shall be signed as follows:

(1) If the SIU is a corporation, by a responsible corporate officer, which for the purpose of this paragraph, means:

- a. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or
- c. By any other person duly authorized by the corporation to sign the reports, as evidenced by the official corporate records.

(2) If the user is a partnership or sole proprietorship, by a general partner or proprietor, respectively.

(3) By a duly authorized representative of the individuals designated in paragraph (1) or (2) above if:

- a. The authorization is made in writing by the individual described in paragraph (1) or (2) above;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- c. The written authorization is submitted to the WRBP.

(4) If an authorization under (3) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization letter satisfying the requirements of (3) above shall be submitted to the WRBP prior to or together with any reports to be signed by the new authorized representative.

Env-Ws 1205.09 Application Signatories and Certification Requirements for Reports.

(a) All applications or SIU reports shall be signed pursuant to Env-Ws 1205.08 and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Env-Ws 1205.10 Monitoring Records.

(a) SIUs subject to IDP reporting requirements shall maintain records of information resulting from monitoring activities required to prepare such reports.

(b) Such records shall include for each sample taken:

- (1) The date, method, location, and time of sampling and the name(s) of the person(s) taking the sample;
- (2) The dates on which analyses were performed;
- (3) The dates on which results of the analyses were received by the user;
- (4) The name and address of the laboratory performing the analyses;
- (5) The analytical techniques and methods used; and
- (6) The results of all analyses.

(c) Such records shall be maintained for a minimum of 3 years and shall be made available for inspection and copying by the WRBP.

Env-Ws 1205.11 Notice of Violation/Repeat Sampling and Reporting.

(a) If sampling performed by a SIU indicates that a violation of its IDP has occurred, the SIU shall:

- (1) Notify the WRBP within 24 hours of becoming aware of the violation; and
- (2) Within 5 business days, submit a noncompliance report pursuant to Env-Ws 1205.15 fully describing the noncompliance, its causes, and the measures taken or to be taken to avoid recurrence.

(b) The SIU shall also repeat the sampling and analysis and submit the results of the repeat analysis to the WRBP within 30 calendar days after becoming aware of the violation.

(c) Notwithstanding (b) above, the SIU shall not be required to resample if:

(1) The WRBP performs sampling at the SIU at a frequency of at least once per month; or

(2) The WRBP performs sampling at the SIU between the time when the SIU performs its initial sampling and the time when the SIU receives the results of this sampling indicating that the violation occurred.

Env-Ws 1205.12 National Categorical Pretreatment Standards.

(a) The WRBP shall notify SIUs of applicable categorical pretreatment standards.

(b) Compliance with categorical pretreatment standards shall be achieved within 3 years of the date such standards are effective, unless a shorter compliance time is specified in the standards.

(c) A SIU subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to the sewer after the compliance date of such standards unless an amendment to its IDP has been issued by the WRBP.

(d) Within 120 days after the effective date of a categorical pretreatment standard, an SIU subject to such standards shall submit a discharge permit request application for an IDP or an amendment to an IDP. The application shall contain the information specified in Env-Ws 1205.03.

(e) Compliance reports required by an IDP or Env-Ws 1205.03(b)(7) shall comply with the reporting requirements outlined in section Env-Ws 1205.13.

Env-Ws 1205.13 Compliance Schedule and Progress Reports.

(a) Each user subject to a compliance schedule as required under Env-Ws 1205.03(b)(7) or 40 CFR 403.12(b)(7), shall report on progress made toward achieving compliance.

(b) The schedule required pursuant to (a) above shall contain the following conditions:

(1) Progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment as required to meet the applicable pretreatment standards; and

(2) The major events in (1) above shall consist of:

a. Hiring an engineer;

b. Completing preliminary and final pretreatment plans;

c. Executing contracts for major components; and

d. Commencing and completing construction, and start-up and shake-down of pretreatment facility.

(c) Not later than 14 days following each date in the compliance schedule, including the final date for compliance, the user shall submit a progress report to the WRBP including, at a minimum:

(1) Whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress;

(2) The reason for the delay; and

(3) The steps being taken by the user to return the construction to the schedule established.

(d) No increment referred to in (b)(1) above or the interval between reports required in (b)(1) above, shall exceed 9 months.

(e) Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new SIU following introduction of wastewater into a public sewer, a SIU subject to pretreatment standards and requirements shall submit to the WRBP an application pursuant to Env-Ws 1205.03.

(f) The SIU's IDP shall be modified to include the schedule noted in (a) above.

Env-Ws 1205.14 Bypass, Slug Discharge, and Upset Notification and Requirements.

(a) A notice shall be posted permanently and shall be plainly visible to the user's personnel responsible for managing wastewater discharges, which shall instruct all employees to immediately call and notify the WRBP in the event of a spill, slug discharge, pretreatment upset or bypass.

(b) Users shall ensure that all employees who may cause or allow such a discharge in (a) above to occur, know of the required immediate notification to the WRBP.

(c) A user may allow any bypass as defined in Env-Ws 1201.03 to occur which does not cause pretreatment standards or requirements to be violated, but only if the bypass is undertaken for essential maintenance to ensure efficient operation.

(d) If a user knows in advance of the need for a bypass, the user shall submit prior notice in writing to the WRBP, at least 10 days before the date of the bypass.

(e) A bypass shall be prohibited, unless it meets at least one of the following provisions:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage as defined in Env-Ws 1201.03 or in accordance with Env-Ws 1205.14(c);

(2) There were no feasible alternatives to the bypass such as the use of:

- a. Auxiliary treatment facilities;
- b. Retention tanks for untreated wastes; or
- c. Maintenance during normal periods of equipment downtime; or

(3) The user submitted notices as required pursuant to Env-Ws 1205.14(d) and EnvWs 1205.15(a).

(f) The "no feasible alternative" provision of (2)c. above shall not be satisfied if adequate back-up equipment could have been installed to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.

(g) If necessary to comply with 40 CFR 403.8(f)(2)(v), the WRBP shall require the user to develop, submit to the WRBP for approval based on those provisions, and implement an accidental discharge/slug control plan.

(h) The plan required in (g) above shall address, at a minimum, the following:

- (1) A description of discharge practices, including non-routine batch discharges;
- (2) A description of stored chemicals;
- (3) A procedure for immediately notifying the WRBP of any accidental or slug discharge; and
- (4) A procedure to prevent an adverse impact from any accidental or slug discharge.

(i) A management plan for addressing (h)(4) above shall include, but are not limited to:

- (1) An inspection and maintenance of storage areas;
- (2) The handling and transfer of materials;
- (3) The loading and unloading operations;
- (4) The control of plant site runoff;
- (5) Worker training;
- (6) The building of containment structures or equipment;
- (7) Measures for containing toxic organic pollutants which include solvents; and
- (8) Measures and equipment for emergency response.

(j) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(k) Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternate method of treatment is provided. This requirement shall apply in the situation where the primary source of power of the treatment facility is reduced, lost, or fails.

Env-Ws 1205.15 Reports of Noncompliance.

(a) The user shall provide to the WRBP as a result of a discharge violation detected through analysis, unanticipated bypass, or slug discharge, or upset that exceeds applicable pretreatment standards, the following:

- (1) An oral notice by telephone or in person within 24 hours from the time the user becomes aware of the event;
- (2) A written report within 5 business days of the time the user becomes aware of the noncompliance which shall include:
 - a. A description of the event and its cause;
 - b. The duration of the event, including exact dates and times;
 - c. If the event has not been corrected, the anticipated time it is expected to continue; and
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the event.

Env-Ws 1205.16 Imminent Endangerment.

(a) The WRBP shall, after notice by letter, telephone, or in person to the user, immediately halt or prevent any such discharge appearing to the WRBP to present an imminent endangerment to the health and welfare of any person, or an endangerment to the environment, or which threatens to interfere with the operation of the public sewer or wastewater treatment facilities.

(b) Actions available to the WRBP shall include but shall not be limited to:

- (1) Ex parte temporary judicial injunctive relief;
- (2) Blockage of a public sewer to halt such discharge; or
- (3) Demand of specific action by the user.

Env-Ws 1205.17 Monitoring and Surveillance.

(a) The WRBP shall sample and analyze the wastewater discharges of users and conduct surveillance and inspection activities to identify, independently of information supplied by such users, occasional and continuing noncompliance with industrial pretreatment standards. All users shall, pursuant to the WRBP's NPDES permit, allow unrestricted access to the department, and EPA personnel for the purposes of investigating and sampling discharges from the users.

(b) The department and the community, through their duly authorized employees and officials, bearing proper identification, may, at any time that a user is operating, enter all parts of the user's premises for the purposes of inspection, observation, measurement, sampling, testing, records examination and copying and the performance of any additional duties in accordance with the provisions of these rules, the community's ordinance, and the SIU's IDP.

(c) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in these rules and local ordinances shall be determined in accordance with standard laboratory procedure as defined in Env-Ws 1201.03 and shall be determined at the control manhole provided, or by samples taken at said control manhole. Pursuant to RSA 485-A:50,V and RSA 149-I:8, each user shall pay all laboratory costs incurred for analysis of its water and wastes.

(d) In the event that no control manhole has been required, the control manhole shall be considered to be the nearest downstream manhole from the building sewer, interceptor sewer, or major interceptor in the public sewer to which the building sewer is connected.

(e) Sampling shall be carried out by EPA approved methods to ensure that the sample is representative of the wastes discharged to the sewer. The WRBP shall determine, based on whether the discharge is continuous or batched, whether a 24-hour composite of all outfalls on the premises is appropriate or whether a grab sample or samples shall be taken.

Env-Ws 1205.18 Variances.

(a) No statement contained in the sewer use rules except for paragraphs Env-Ws 1201.07(d) and (e), shall be construed as preventing any special waiver pursuant to Env-Ws 904.07 or arrangement between the WRBP and any user concern whereby an industrial waste of unusual strength or character shall be accepted by the WRBP for treatment, provided that such waivers or agreements meet the conditions set forth in (b) below:

(b) A waiver or variance shall be granted if it:

- (1) Does not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder;
- (2) Is compatible with any user charge system in effect;
- (3) Does not damage the POTW and appurtenances; and
- (4) Does not waive applicable national categorical pretreatment standards.

Env-Ws 1205.19 Public Information. Information and data submitted to the WRBP relating to wastewater discharge characteristics shall be available to the public in accordance with RSA 91-A. Other such information shall be available to the public at least to the extent provided by 40 CFR Section 2.302 and Env-Ws 1205.20.

Env-Ws 1205.20 Confidential Information.

(a) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from WRBP inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable federal or state law.

(b) Any such request for confidentiality shall be asserted at the time of submission of information or data by stamping the words "confidential business information" on each page containing such information.

(c) When requested and demonstrated by the user furnishing the report that such information should be held confidential, the portions of the report which might disclose trade secrets or secret processes:

- (1) Shall not be made available for viewing or copying by the public pursuant to 40 CFR part 2;
- (2) Shall be made available immediately upon request to government agencies for uses related to the NPDES program or pretreatment program;
- (3) Shall be made available to enforcement proceedings involving the person who furnished the report.

(d) Wastewater constituents and characteristics and other effluent data as defined in 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Appendix

Rule	Statute Rule is Intended to Implement
Env-Ws 1200	RSA 485-A:45-54; RSA 149-I
Env-Ws 1201	RSA 147:8; RSA 149-I:6; RSA 485-A:45-54
Env-Ws 1202	RSA 485-A:50, 51; RSA 149-I:7, 8, 10
Env-Ws 1203	RSA 485-A:54
Env-Ws 1204	RSA 485-A:54
Env-Ws 1205	RSA 147:8; RSA 149-I:6; RSA 485-A:5, 45-54